HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 12061 of 2007

Date 6-8-2007

Between:
Engineer-in-Chief (Admn. Wing),
Irrigation & CAD Department,
Jalasoudha Building, A.P.
Hyderabad and others.

……PETITIONER

AND
Pendyala Venkata Subba Rao and others.

……..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.12061 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The Department filed the present writ petition seeking a Writ of Certiorari or any other Writ, Order or direction to call for the records relating to the order of the Tribunal passed in C.A. No. 974 of 2006 in O.A. No. 8811/98. dated 30.4.2007.

The brief facts of the case are that the respondent No.24 herein filed C.A. No. 974 of 2006 before the Tribunal seeking implementation of the orders of the Tribunal in O.A. No. 8811 of 1998, dated 5.11.2003. The Tribunal, by the order impugned in this writ petition dated 30.4.2007 directed the Engineer-in-Chief (Admn. Wing) Irrigation and Command Area Development Department, Errum Manzil, Hyderabad, the 1st petitioner herein, to appear in person before the Tribunal on 14.6.2007 at 10.30 A.M. Assailing the said order of the Tribunal, the Department filed the present writ petition.

While ordering notice before admission, this Court granted interim stay of order of reporting compliance in C.A. No. 974 of 2006 with reference to respondent No.24 herein and directed that the hearing of the case on 14.6.2007 may go on.

When the matter is taken up for hearing, Sri J. Sudhir, learned counsel

appearing on behalf of the learned Advocate General has submitted that though the Government has taken a decision vide G.O. Ms. No. 9, dated 3.1.2006 to implement the order of the Tribunal, it is not possible to implement said order of the Tribunal.

Sri V. Malik, learned counsel for the respondents-applicants, on the other hand, submitted that the Government after considering the proposal sent by the Engineer-in-Chief recommending the case of the respondents, has taken a decision vide G.O.Ms. No. 9, dated 3.12.2006 to implement the orders of the Tribunal, dated 5.11.2003. He, therefore, submits that the Department cannot take a stand contrary to the said G.O. and deny the benefits.

It is relevant to extract paras- 8 and 9 of G.O. Ms. No. 9, dated 3.12.2006, which read thus:

> "In the reference 8th read above, the Engineer-in-Chief (Admn. Wing), I&CAD Department, Hyderabad has informed that the issue of Draughtsmen promote Assistant Engineers was discussed in the Board of Chief Engineers Meeting twice in the year 1991 and 1997 and recommended to give the benefit for the Draughtsmen who were promoted as Assistant Engineers for the limited purpose of automatic advancement scheme. He has requested for implementation of the orders of the Hon'ble A.P.A.T.
>
> Government after careful examination of the proposal of the Engineer-in-Chief (Admn. Wing), I&CAD Department, Hyderabad, hereby decide and accordingly order to implement the orders dated 5.11.2003 of the Hon'ble A.P. Administrative Tribunal in O.A. No.3156/98 filed by Sri Mohinuddin Ahmed and 9 others and O.A. No.8811/1998 filed by Sri Pendyala Venkata Subba Rao and 29 others wherein it was ordered to implement the benefits given to the Overseers to the draughtsmen, but notional benefits should be given prior to the filing of the petitions and monetary benefits subsequent thereof.

A perusal of the said G.O. goes to show that it is the Engineer-in-Chief of the Administrative Wing, the 1st petitioner herein, who has recommended for the implementation of the orders of the Tribunal in O.A. No. 8811/98 and

the Government having accepted the said proposal, through the aforesaid G.O. decided to implement the benefits given to the Overseers to the Draughtsman in pursuance of the orders of the Tribunal in O.A. No. 8811/98 passed with reference to the applicants therein. In the said G.O., the Government also directed that notional benefits should be given prior to the filing of the petitions and monetary benefits subsequent thereof.

Admittedly, the Chief Engineer himself has recommended to give benefits for the Draughtsmen for the limited purpose of automatic advancement scheme and in view of the fact that the Government after accepting the proposal sent by the Engineer-in-Chief, Hyderabad, has issued G.O. Ms. No.9, dated 3.12.2006 for implementing the benefits, the Department cannot now take a different stand and say that the said order is not implementable. The Government also obtained concurrence of the Finance Department before issuing the said G.O.

Another important factor to be noticed is that assailing the order of the Tribunal in O.A. No. 8811 of 1998, dated 5.11.2003, the department filed Writ Petition No. 8505 of 2007 before this Court and through order dated 25.4.2007, this court dismissed the said writ petition on the ground of laches. Thus, the order dated 5.11.2003 passed by the Tribunal in O.A. No. 8811 of 1998 has become final.

At this stage, learned Government Pleader has contended that the respondents 23 and 24 are not entitled for the benefit of automatic advancement scheme in view of the fact that they have not been promoted as Assistant Engineers.

In view of the fact that the Engineer-in-Chief himself has recommended for the implementation of the orders of the Tribunal in O.A. No.

8811/98 and the Government having accepted the said proposal, decided to implement the orders of the Tribunal in O.A. No. 8811/98 passed with reference to the applicants therein through G.O. Ms. No.9, dated 3.12.2006, the contention of the learned Government Pleader that respondents 23 and 24 are not entitled for the said benefit, cannot be accepted and the same is accordingly rejected.

Under the circumstances, we dispose of this writ petition with a direction to the petitioner-Department to implement the order of the Tribunal in O.A. No. 8811/1998, dated 5.11.2003 within a period of four weeks from today. Till such time, there shall be stay of hearing of the Contempt Application filed by the respondent No.24 before the Tribunal, namely, C.A. No. 974 of 2006.

However, learned Government Pleader has contended that if the said order of the Tribunal is implemented, some other officers who are not extended the same benefit may approach the Tribunal and lot of litigation may crept in.

In the circumstances, we make it clear that this order is confined only to the present respondents and the applicants before the Tribunal in O.A. No. 8811/1998. However, this order shall not be treated as a precedent for future cases.

The writ petition is accordingly disposed of. No costs.

_____

T. Meena Kumari,J

Date: 6th August, 2007

_____

G. Chandraiah, J

pnb